IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

MONDAY, THE 2ND JULY 2007 / 11TH ASHADHA 1929

WP(C).No. 2481 of 2007(U)

OS.1623/2002 OF IST ADDL.MUNSIFF COURT, ERNAKULAM.

PETITIONER:

DR.TOMY JOSEPH, S/O.LATE JOSEPH,
RESIDING AT OLAPRATH, S.A.ROAD,
COCHIN-16.

BY ADV. SRI.GEORGE THOMAS (MEVADA),
SRI.NINU M.DAS,
SMT.VEENA EBBY.

RESPONDENTS:

1. **SRI.MATHEW WILSON, S/O.THOMAS,**
   BUSINESS, GLORY & COMPANY,
   MARINE DRIVE, KOCHI-31.

2. **SRI.JAIJI JOSE, S/O.JOSE PAUL,**
   RESIDING AT 147 PM SAMY COLONY, 4TH STREET,
   R.S.PURAM, COIMBATORE,REP. BY HIS POWER OF
   ATTORNEY JOSE PAUL, S/O.PAULOSE, RESIDING AT
   PUTHEZHATH HOUSE, DESHABHIMANI ROAD, ELAMKULAM
   VILLAGE, KANAYANNUR TALUK.

3. **M/S.GLORY AND COMPANY CARPETS**
   PVT.LTD., MARINE DRIVE, KOCHI-31.

BY ADV. SRI.T.B.THANKAPPAN FOR R1 & R3,
ADV.SMT.P.V.RADHAMANI.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 02/07/2007,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.(C). NO.2481/2007:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P.1: COPY OF THE PLAINT IN O.S. 1623/2002 DTD. 07/10/2002.

EXT.P.2: COPY OF THE I.A. 7744/2006 DTD. 24/08/2006.

EXT.P.3: COPY OF THE I.A. 11407/2006 DTD. 01/12/2006.

EXT.P.4: COPY OF THE PLAINT IN O.S. 1580/2002.

EXT.P.5: COPY OF THE DOCUMENT NUMBER 4319/2002.

EXT.P.6: COPY OF THE ORDER PASSED IN I.A. 11407/2006.

EXT.P.7: COPY OF THE ORDER PASSED IN I.A. 7744/2006.

//TRUE COPY//

prv.

M.N.KRISHNAN, J

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W.P.(C) No.2481 OF 2007

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Dated this the 2nd day of July, 2007

JUDGMENT

This writ petition is filed seeking to set aside the order passed in I.A.No.11407 of 2006 in I.A.No.7744 of 2006 in O.S.No.1623/2002 of the Munsiff's Court, Ernakulam. The dispute centers around the valuation of 1.409 cents of land over which the plaintiff seeks for an injunction. The Commissioner, who inspected the property submitted a report stating that the valuation of the adjacent property of 5.625 cents as Rs.16,87,500/- and therefore directed the plaintiff to value the property in accordance with the said valuation. Learned counsel for the writ petitioner submits that both the properties are of a different nature, one is having frontage to the road and the other is not having road frontage. He submits that the petitioner may be given an opportunity to explain and adduce evidence in support of his contentions. Therefore the order under challenge is set aside and the matter is remitted back to the Munsiff's Court. The learned Munsiff shall dispose of the matter after affording an opportunity to both sides to adduce documentary and oral evidence in support of their contentions in accordance

with law. The parties are directed to appear before the Munsiff's Court on 2.8.2007

Writ petition is disposed of as above.

M.N.KRISHNAN, JUDGE

Cdp/-